

PUBLIC HEARING
RE: PROPOSED CLOSURE OF KATE S. BUCKINGHAM
SPECIAL EDUCATION CENTER
9207 S. PHILLIPS AVE.
CHICAGO, ILLINOIS

HEARING COMMENCED APRIL 23, 2013 5:00 PM

HONORABLE CHERYL A STARKS

HEARING OFFICER

INTRODUCTION

On April 23, 2013 at 5:30 p.m. pursuant to Section 105 ILCS 5/34-230 the undersigned Independent Hearing Officer, **Cheryl A. Starks**, convened a public hearing at the Chicago Public School offices located at 125 South Clark Street, Chicago, Illinois, for receiving comments from interested parties regarding the proposed closure of Kate S. Buckingham Special Education Center. A Certified Shorthand Reporter transcribed this hearing. Attorney Gabriela Brizuela of the CPS Law Department represented the Chicago Public School Chief Executive Officer, Barbara Byrd Bennett, (CEO). The following details a summary of the evidence presented during the public hearings.

THE PROPOSAL

The CEO of CPS is making a recommendation to the Board of Education to close of Kate S. Buckingham Special Education Center. (Buckingham) based on underutilization. The recommendation is that Moses Montefiore Special Elementary School located at 1310 S. Ashland Ave. (Montefiore), will serve as the dedicated welcoming school for students of Buckingham in the fall. Montefiore, according to the Chief Executive Officer's Guidelines for School Actions, is a higher performing school. The recommendation was based on CPS Space Utilization Standards and student enrollment numbers recorded on the 20th attendance day for the 2012-2013 school year. On the 20th day of attendance, Buckingham had an enrollment of 35 students in a school with a capacity to service 65 students.

COMMUNITY MEETINGS

The written evidence of these proceedings included verbatim transcripts and written summaries of community meetings held at Harlan High School on April 6 2013 and April 12, 2013, and the public hearing held on April 23, 2013 at CPS Central Office. All submitted documents and comments were reviewed, incorporated, and given the proper consideration.

EXHIBITS

Attorney Gabriela Brizuela from the Chicago Board of Education Law Department tendered in support of the Closure, and the Hearing Officer received into record, the CEO's Exhibit marked CPS Compiled Exhibit No. 1

RELEVANT LEGAL AND PROCEDURAL DOCUMENTS

Relevant Statutes:

105 ILCS 5/34-18 (Powers of the Board) effective July 13, 2012

105 ILCS 5/34-200 (Definitions) effective July 13, 2012

105 ILCS 5/34-225 (School Transition plans) effective November 30, 2012

105 ILCS 5/34-230 (School Action Public Meetings and Hearings) effective August 22, 2011

105 ILCS 5/34-232 (Proposed School Action Announcement and Notice: 2012-2013 School Year) effective November 30, 2012

Relevant Chicago Public Schools Policies and Procedures

Chicago Public Schools Board of Education School Performance, Remediation, and Probation Policy for the 2011-2012 School Year, Section 302.6A (Board Report 10-0728-P04)

Chicago Public Schools Policy on Review and Establishment of School Attendance Boundaries (Policy Manual section 703.2, Board report 05-0622-P01)

Chicago Public Schools Space Utilization Standards (Issued December 28, 2011)

Guidelines for School Actions, 2012-2013 School Year (Issued November 30, 2012)

Chief Executive Officers' procedures for public Hearings on Proposed School Closure, Consolidation, Co-Location, Phase-out, or Reassignment Boundary Change

NOTICE OF HEARINGS

Notice to Parents or Guardians of Students of Kate S. Buckingham Special Education Center Dated March 21, 2013 and Parents or Guardian of Students of Moses Montefiore Special Elementary School, Notice Letter to School Personnel, Local School Council Members, and Board Members

Notice to Administrators, Faculty, Staff, and LSC Members of Kate S. Buckingham Special Education Center and Administrators, Faculty, Staff, and LSC Members of Moses Montefiore Special Elementary School, dated March 21, 2013, and Draft Transition Plan for the Proposed Closure of Kate S. Buckingham Special Education Center

Affidavits

- a. Affidavit of Jeff Broom, performance Data Analyst for Chicago Public Schools Regarding Mail and/or Personal Delivery of Notice to Parents/Guardians, School personnel and Local School Council Members of Kate S. Buckingham Special Education Center and Moses Montefiore Special Elementary School on or about March 21, 2013.
- b. Affidavit of Leonard Langston, Chief of Staff, Office of Public and Community Affairs for Chicago Public Schools Regarding Electronic Mail Delivery of Notice Letters to Elected Officials on or about March 21, 2013.
- c. Affidavit of Jason Van Patten, Director of Web Services for Chicago Public Schools Regarding Publication of: (a) List of Independent Hearing Officers on or for Draft Guidelines for School Actions on or before October 31, 2012, (b) Guidelines for School Actions on or before November 30, 2012, (c) (d) Proposals on or about March 21, 2013, and (e) Summary from the Community Meeting on or before April 6, 2013 and April 12, 2013.
- d. Public Notice of Hearing and Community Meeting by Newspaper Publication in the Chicago Sun-Times Dated April 3, 2013.

DOCUMENTS AND WRITTEN EVIDENCE IN SUPPORT OF THE PROPOSAL AT THE FOLLOWING TABS:

16. Transcript of the April 6, 2013 Community Meeting regarding the Proposed Closure of Kate S. Buckingham Special Education Center

17. Summary of the April 6, 2013 Community Meeting regarding the Proposed Closure of Kate S. Buckingham Special Education Center

18. Transcript of the April 12, 2013 Community Meeting regarding the proposed closure of Kate S. Buckingham Special Education Center

19. Summary of the April 12, 2013 Community Meeting regarding the proposed closure of Kate S. Buckingham Special Education Center

20. Written Statement of Benjamin Felton, Portfolio Planner for the Chicago Public Schools.

21. PowerPoint Presentation Accompanying Benjamin Felton's Written Statement.

22. Written Statement of Markay Winston, Chief Officer of Diverse Learner supports and Services for the Chicago Public schools.

23. Presentation Accompanying Markay Winston's Written Statement

SUMMARY OF THE HEARING ON THE PROPOSAL TO CLOSE MARCONI SCHOOL

BOARD PRESENTERS:

Benjamin Felton, CPS Portfolio Manager testified in this hearing that his job is to manage strategic planning to improve the efficient utilization of CPS facilities. He gave his qualifications and his prior relevant employment history. He testified that in proposing this boundary change, several factors were considered as outlined in the Review and Establishment of School Attendance Boundaries Policy, including, but not limited to the capacity of Montefiore, geographic barriers, travel time, distance traveled, and program considerations.

He referred to the space utilization Standards used by the CEO in determining the enrollment efficiency range of a facility. According to the Space Utilization Standards (SUS) the enrollment efficiency range is plus or minus 20% of the facility's ideal enrollment. A typical elementary school has 39 classrooms. The ideal enrollment for Elementary school buildings is the allotted homeroom multiplied by 30. The allotted homeroom, approximately 76-77% of 39, is 30 classrooms. Multiplying 30 classrooms by 30 equals the ideal enrollment number of 900. He then applied this formula to Buckingham which, according to testimony, on the 20th day of attendance for the 2012-2013 school year, had an enrollment of 35 students which is below the efficiency range.

According to Mr. Felton, there are 7 total classrooms within the Buckingham facility. Approximately 76-77% of this number is 5, the number of allotted homerooms. Thus, 5 multiplied by 13 equal 65, which is the ideal enrollment of the facility. Thus, the enrollment efficiency range of the Buckingham facility is between 52-78 students. Therefore, the 35 Student enrollments for Buckingham are below the efficiency range of 65,

thus making the school underutilized. He does acknowledge that Buckingham is a specialty school that serves students with disabilities that requires a separate instructional setting and that flexibility was considered in the use of space, thus the use of 13 as a multiplier rather than 30. Even with the lower multiplier, Buckingham is underutilized.

Conversely, he compared Montefiore's enrollment status on the 20th day of attendance for the 2012-2013 school year. Montefiore has 21 total classrooms, 76%-77% this number is 16, multiplied by 13 to allow for the special needs of the students enrolled, thus equals an ideal enrollment of 208 for that facility. The enrollment efficiency range of the Montefiore facility is between 167-249 students. Montefiore has 27 students enrolled. Buckingham's current enrollment of 35 students plus Montefiore's current enrollment of 27 students and Near North Elementary School's current enrollment of 90 students equals 152 students, which is below the 167-249 Montefiore efficiency range. Thus, there is enough space in the Montefiore facility for Buckingham, Near North, and Montefiore students.

He also included the projected enrollments for each school for the 2012-2013 school Year. Buckingham is 30 students, Near North is 94, and Montefiore is 24. Thus, 148 is still below the efficiency range for Montefiore.

Markay Winston, Chief Officer of Diverse Learner supports and Services for the Chicago Public schools testified to the transition plan in place to assist the transfer of Buckingham students to Montefiore. She stated that Buckingham students would be welcomed by the Montefiore Special Elementary school, which is a higher performing school than Buckingham is, based on the 2011-2012 Performance Policy. Both Buckingham and Montefiore received a Level 3 rating.

Under CPS Performance Policies, schools are ranked based on a variety of student outcome measures, including standardized test scores and student attendance. The highest performing schools are designated as Level 1 schools while the lowest performing schools are designated as Level 3 schools.

When comparing two schools of equal rating, the CEO's Guidelines define the higher performing elementary school as the one that performs higher on the majority of four performance metrics. According to CPS analysis, Montefiore performed higher than Buckingham on all four of the metrics in the CEO Guidelines on the Performance Policy for 2011-2012 school year. The ISAT composite meets or exceeds score, and the Value-Added reading and Value Added math scores were used to measure performance. (See written Testimony of Ms. Winston)

Ms. Winston also testified that students will receive additional support to address safety concerns by working with CPS Office of Safety and Security, Chicago police Department, Department of Family Support Services, local community groups and faith partners, elected officials and other agencies to develop a plan for safe transition of students with disabilities. Additionally, given the special needs of the students from Buckingham she

stated that her office has been working with families since April to accommodate students with IEP's that require separate settings.

She indicated that OSS would update school safety audits, address specific safety concerns raised by students and staff. Students will also receive academic support as they transition. Principals will receive discretionary resources to provide direct academic support to students. Students will also receive social and emotional support to help them adjust to a new school environment. She also stated that additional transition supports would be provided to ensure that Buckingham students who have unique needs or circumstances are adequately supported in the transition. However, the Plan did not address the potential hardship on students given the distance of travel between the two schools.

The Hearing Officer received on behalf of the Public the following Exhibits:

Public Exhibits:

1. Written Statement of Alderman Fioretti
2. Letter from Parent of Student D
3. Letter from Carolyn E. McNeil
4. Letter from Parent Amanda Wallace
5. Buckingham Mission Statement submitted by Tally Oz Jacobson, counselor and Case manager

PUBLIC SPEAKERS

Alderman Fioretti, Stated that it would be a mistake to close two therapeutic schools because students at Montefiore have individual education plans, IEPs that require them to be placed in a school with special provision for their safety and education. He stated that he has tried to work with CPS to refer more students with special needs to be serviced by Montefiore, but CPS has failed to do so.

He accused CPS of failing to evaluate children with special needs in order to save money. He believes that CPS's failure to evaluate and make appropriate referrals of children for special education has contributed to the low enrollment in all of the therapeutic schools. He also echoed the concerns of his constituents that it would be an emotional hardship and dangerous for students with special needs to travel long distances to get to school. In addition, he believes that if CPS would properly evaluate all of the children across the City, that the numbers would not only fill up Montefiore, but Buckingham and Near North as well.

He stated that his testimony from three years ago in the City Council would support his statement that he has been trying for several years to get CPS to provide evaluations for children who are in need of these educational services

He also added that CPS had within one year, lost contact with all of the students (presumably special needs students) from Susan B Anthony School after it was closed. He

closed by saying that he was concerned that it would take several hours for students to get to school.

Otis Taylor, Principal of Buckingham, testified that he has repeatedly asked CPS to send students who are in need of special services. They do not control the referrals, CPS has to refer students, and they have failed to do so. That many children out there are not getting the services that they need. He believes that they have made progress with the children that they currently service. When questioned by the Hearing officer about the distance between the schools, he stated that it was about 15 miles.

Gregory Johnson, Special Education Teacher stated that first the school was being closed for underutilization, now it seems that it is for academics. He too stated that they are not getting the proper referrals from CPS. He gets several calls a day requesting help for children who would qualify for their services if CPS would make the referrals. He also stated that Buckingham is located in a middle class neighborhood where as Montefiore is not. He believes that CPS should take the same amount of time to refer students to schools like Buckingham as they do to send children to magnet schools.

Rosie Sutton, retired teacher, who formally taught at Buckingham, stated that when many of the students came to Buckingham they could not read nor write. She stated that CPS is asking children who cannot read to take standardized test and do as well as other students who attend school every day

Student A simply stated: "Please don't close my school".

Victoria Jackson, Buckingham Teacher, stated that CPS should not close Buckingham. She stated that there should be at least one Therapeutic School on the West side and one on the South side. She believes that once the dust settles the Receiving School will be overcrowded or very close to capacity. She too believes that if the Office of Diverse Learning were to place severely emotionally disturbed students where they belong; there would be enough students to fill up all of the Therapeutic schools.

Diantha Hudson-Garcia, parent, stated that no Therapeutic school should be closed. She added that just like her adopted son, many of these children have other problems such as fetal alcohol syndrome, ADHD, and bipolar disorder, which have not been identified. She does not understand why D.C.F.S. and CPS does not work together to identify and provide services for these children. She also stated that there should be a moratorium on closures because although funds are not available now, there may be funding in the future.

A STUDENT B, stated that prior to attending Buckingham he would get into fights, cuss his teachers, and was taken to the hospital three times. He stated that he does not get into trouble anymore because Buckingham has helped him to control his anger. He stated that he went from not knowing how to read or do math to being an A, B student.

Nikkitoya Roberts, parent and former school bus driver, stated that other children bully many of these kids. She stated that this move would be very difficult and a major

disruption for these children. She stated that the bus ride would be very long and problematic if there is not an assistant on the bus.

Martin Ritter CTU Rep testified that the CEO claims that these children are going to higher performing schools but that is not the case as the Sun Times and Tribune has reported. He indicated that nearly half of the closing schools have the same ratings as the receiving schools. He also stated that the 15-mile distance between schools is educationally unsound. He believes that educators should be making these decisions and not a consulting group. He believes that CPS has manufactured a crisis that does not exist.

Student C testified that he used to get failing grades prior to coming to Buckingham but now he gets As, Bs, and Cs.

Student D, gave credit to his principal and teachers for helping him to improve his grades and test scores. He also stated that they have pets and fun field trips.

Carolyn McNeil, School Clerk, disputes the CEO's figure on the number of homerooms that Buckingham has. She stated that there is one computer lab, one art room, and one common classroom, which cuts their classroom number to four. She talked about how the Board cannot account for 51 students who were displaced due to prior closings. She believes that the Board has become a real estate business and sees children as commodities and not students.

Kathleen Murray, CTU Rep. She is opposed to closing Buckingham and moving children across the city to another school. She also opposes the closing of Near North as well. She is concerned about the small children who are being bused across the city. She stated that it is highly disruptive for special needs children who already have a seven-hour day to endure an hour-long commute to get to school and that is in good weather conditions.

Tally Jacobson, Counselor, and Case Manager Buckingham, stated that Buckingham students are not typical students, they have diagnosis of emotional disorders, oppositional defiance, ADHD, intermittent explosive disorder, post-traumatic stress disorder, bipolar, mood disorder, LD, psychotic disorder among other issues. Therefore, their school should not be compared or evaluated based on typical CPS school standards. They work on life skills that reintegrate the students back into mainstream educational settings. The students are making successful progress and would have to start all over if they were moved to another environment. He also added that eleven students were referred this year, which puts their percentage at 75 percent.

Stephen Hyman, Physical Education Teacher, he stated that some of the students come from homes where they have no parents and that these students have grown up in their (Buckingham) school. The closest thing that some may have to a parent is the principal, lunch person, or Aide. The students are given the opportunity to participate in sports regardless of their abilities. They are involved in Special Olympics that they otherwise would never have had the chance to participate. These events are held during the day for

safety reasons. Montefiore does not offer this to the children because they are not allowed to leave during the school day. He too is concerned about the very long ride these children would have to take to get to school.

Carrie Patterson, parent, states that Montefiore is known as the "bad boy's school". She does not believe that the safe passage program works because the workers are quitting because they are not being paid. She voiced her concerns about the safety of her child as well as other children who would be exposed to danger at Montefiore.

William Calloway, substitute teacher, stated that he was phased out from a turn-around school and that he had worked with a particular student who now attends Buckingham. He is thrilled about the progress that this student has made since attending Buckingham. He praised the Principal and teachers at Buckingham for the job that they are doing with the students. He further stated that CPS does not know what is going on in the schools because their Kids probably do not attend Chicago Public Schools.

Jackson Potter, CTU Rep. currently staff coordinator, believes that it is inappropriate to "stuff" special needs children into crowded classrooms. They have individualized programs and intimate relationships with staff that will be broken and cause a major disruption and risk to their academic progress and emotional stability. He believes this is child endangerment and CPS is not following the law.

Amanda Wallace stated in her letter that prior to attending Buckingham; her son had attended three other schools. He would run out of the classrooms. Since he has been at Buckingham, she has not been called up to school every day as in the past.

FINDINGS AND RECOMMENDATIONS:

The Hearing Officer makes the following findings concerning the CEO's proposal to close Kate S. Buckingham Special Education Center:

The powers of the Board of Education are enumerated in statutory provisions under the School Code of the State of Illinois 105 ILCS 5/34-18. The Board has the power to develop and implement policies involving the closure of existing schools. This type of action includes school closings made to relieve overcrowding or underutilization of facilities. This can be done in order to meet current or projected demographics patterns within the District. The policy must be based on the state of existing facilities, projected enrollments, and available resources for improvement of schools. Enrollment is a factor the Board may consider, with other factors and conditions, in the exercise of this power (105ILCS 5/34-230). The Board's proposal to close Buckingham based on underutilization is an example of a "School Action" that requires compliance with the above stated statutory provisions.

The evidence presented by the CEO has satisfied all of the necessary notice requirements as mandated by Law. The legal requirements for notice of community meetings and public hearing pursuant to 105 ILCS 5/34-230 has been satisfied. Notice was sent to the following: Parents/legal guardians of both schools, all Administrators and staff, designated

Public Officials, and the general public, through mail, electronic notification on the Board's website, electronic mail, and school specific hearings at centrally located offices of the Board as specified in the notice. These notices also contained the Transition Plans and the Draft Guidelines for School Actions 2012-2013 School Year.

The Transition Plans for Buckingham addresses the general support measures in place to accommodate special needs children into their new environment.. The plan calls for Buckingham student's IEPs to follow them to Montefiore where they will continue to receive the same individualized instructions as they were getting at Buckingham. All clinical and related services will be provided including occupational therapy, nursing, speech, physical therapy, social work, psychology, assistive technology support, and educational instructions per each IEPs and adequate staff to fully implement the students' IEPs. CPS staff will monitor Classrooms and train staff on specialized equipment, for special needs children. The staff will also receive awareness training on the unique population of students at the school. However, while the transition plan generally complies with the CEO Guidelines, there are additional factors to consider.

Both schools are Level 3 schools. The CEO's Guidelines define the higher performing elementary school as the one that performs higher on the majority of four performance metrics. According to CPS analysis, Montefiore performed higher than Buckingham on all four of the metrics in the CEO Guidelines on the Performance Policy for 2011-2012 school year. Thus, based on the 2011-2012 Performance Policy, the CEO has met the performance Criteria.

The biggest concern for parents, educators, and the community is the issue of safety, given the long commute. Many have expressed their concerns about the feasibility of an additional hour-long commute for special needs children. While it is a sound argument, that CPS should have a Therapeutic school for Special needs on the West side and South Side of Chicago, the School Code does not require it.

There has been competent testimony from social workers and teachers who know these children best, that such a move would be devastating on their already fragile emotional condition. Some special needs children will suffer extreme disruption and inconvenience if forced to endure a very long bus ride across the city to attend school every day, especially in inclement weather. Additionally, in the case of a medical emergency, these children are far from their homes, which increase the amount of time it would take for a parent or guardian to reach the school.

Unfortunately, these special needs children who already face daily challenges unknown to many of us, will face yet another. They will be required to get an even earlier start in order to take a very long bus ride to the West side of Chicago during rush hour traffic, which will add to an already long day. It is doubtful that transporting a busload of children with severe behavioral problems is going to work for anyone. Some students with limited mobility or other limiting disabilities will be forced to make other choices because they will not be able to endure the long commute.

Although the CEO has stated that, the Office of Diverse Learner Supports and Services will be available to discuss nonpublic options for students, who may not be able to attend Montefiore; this would be a major setback for the students who have made significant progress in their current location. Although CPS has the authority to close schools for budgetary reasons, it is unconscionable to require special needs children to travel over 15 miles in order to get to school. The factor of safety and security for these particular students was not considered in the proposal to close Buckingham.

Additionally, it might be noted that Buckingham may be underutilized due to the failure of CPS to make the proper referrals as required. The testimony has been consistent that CPS has to refer students to these Therapeutic schools, but had failed to do so. Nevertheless, CPS now seeks to close the same school for which it created the shortage of students.

Although, disheartening to parents, staff, and community, the School Code does not take into account the emotional distress that such a move might have upon the fragile state of the special needs student. Although the CEO generally complied with the requirements of the school code and Guidelines, the safety impact of the long-distance travel on the affected special needs students was not taken into account. While it is understandable that CPS must reduce cost, it should not be done to the detriment of special needs children.

For the foregoing reasons, the Hearing Officer finds that the CEO failed to consider pertinent additional information on the safety impact that the long commute will have on Buckingham students. Therefore, because the CEO has not complied with all requirements of 105 ILCS 5/34-230 and the CEO's Guidelines for School Action, the Hearing Officer does not Recommend Closure of Buckingham Special Education Center.

Dated: May 2, 2013


Cheryl A. Starks

Independent Hearing Officer